

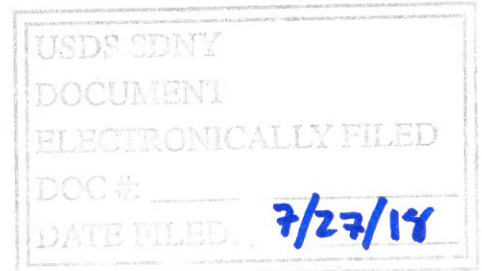


UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
NEW YORK REGIONAL OFFICE
200 Vesey Street, Suite 400
NEW YORK, NY 10281-1022

WRITER'S DIRECT DIAL
LINE
(212) 336-0077
gizzip@sec.gov

July 23, 2018

Hon. Richard J. Sullivan
United States District Judge
United States Courthouse
40 Foley Square
New York, NY 10007



Re: *SEC v. Durante*, 15-CV-9874-RJS (S.D.N.Y.)

Dear Judge Sullivan:

We represent the plaintiff Securities and Exchange Commission in this action. This letter is to provide the Court with a status report on both this case and the parallel criminal case, *U.S. v. Durante*, 15-CR-171-ALC (S.D.N.Y.), pursuant to the Court's memo endorsement of the Commission's last status report dated May 21, 2018 (docket no. 111, 112).

In the last status report, the Commission reported that the U.S. Attorney's Office had no objection to the Court lifting the stay of this action that had been ordered on March 23, 2016. On May 22, 2018 the Court lifted the stay, and directed defendants Larry Werbel and Evolution Partners Wealth Management LLC to respond to the complaint by June 12, 2018 (docket no. 112). As previously reported, defendants Christopher Cervino, Abida Khan a/k/a Sheik Firdosh Khan, Walter Reissman, and Kenneth Wise have consented to partial judgments imposing the non-monetary relief the Commission sought in this action, and the Court has entered judgments as to each of them. After the stay was lifted, Werbel consented to entry of a partial judgment ordering the non-monetary relief that the Commission sought in this action, with the monetary relief (disgorgement and civil penalties) to be resolved at a later date (docket no. 113). On June 18, 2018, the Court entered the judgment as to Werbel (docket no. 114), and entered an order noting that Evolution Partners had not responded to the complaint and directing the Commission to move for default as to Evolution Partners by July 3, 2018 (docket no. 115). Because Evolution Partners has been dissolved, the Commission requested and the Court granted an extension of the deadline to allow the Commission staff to make, and the Commission to consider, a recommendation for a voluntary resolution of the action as to Evolution Partners (docket no. 116, 117).¹

In the criminal action, as noted in the May 21, 2018 status report, Werbel was the last defendant remaining to be sentenced. Werbel's plea of guilty was accepted at a sentencing hearing

¹ Cervino, Khan, and Werbel separately consented to Commission orders imposing industry bars in follow-on administrative proceedings. See *Matter of Christopher Cervino*, Admin. Proc. File No. 3-17947 (May 25, 2017); *Matter of Abida Khan*, Admin. Proc. File No. 3-17948 (June 8, 2017); *Matter of Larry Werbel*, Admin. Proc. File No. 3-18537 (June 8, 2018).

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in September 2017, but the sentencing was adjourned due to the defendant's medical condition. Werbel was sentenced on July 17, 2018, and the U.S. Attorney's Office has been ordered to make a submission regarding restitution within 30 days. Thus, all defendants have now been sentenced (although restitution is yet to be resolved as to any of the defendants).

Now that the terms of sentencing are established, the Commission staff is in the position to attempt to resolve the claims for monetary relief against the defendants on consent. The staff expects to reach agreements with some if not most of the defendants. If the staff is able to reach agreement with any or all of the defendants, the staff will seek Commission authorization of any such agreements and then present them to the Court. The staff recently sent paperwork for such an agreement to Edward Durante but has not yet heard back from him. (Durante is incarcerated and is not represented by counsel in this action). If the staff is not able to reach agreement with some or all defendants, the staff will seek permission to move that the Court determine whether to order monetary relief. Such motion practice is provided for in the partial consent judgments entered as to Cervino, Khan, Reissman, Werbel, and Wise. Should Durante fail to respond to the Commission's recent proposal, the Commission plans to seek discovery concerning the claims against him and would seek permission to file a motion for summary judgment, if appropriate. (In March 2016, before this action was stayed, Durante filed an answer to the complaint (*see* docket no. 41).)

The Commission proposes to report back to the Court in sixty days as to the status of resolving the claims for monetary relief against the defendants.

Respectfully submitted,

/s/ Paul G. Gizzi

/s/ James K. Hanson

Paul G. Gizzi

James K. Hanson


Cc: All Defendants
U.S. Attorney's Office

IT IS HEREBY ORDERED that the Securities and Exchange Commission ("SEC") shall submit a status letter no later than Friday, September 21, 2018 updating the Court "as to the status of resolving the claims for monetary relief against the defendants." IT IS FURTHER ORDERED that the status update shall include a proposed schedule for briefing on any motions, including a motion for summary judgment against Defendant Durante, that the SEC seeks to make.

SO ORDERED

Dated:

7/23/18


RICHARD J. SULLIVAN
U.S.D.J.